

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

(1) WP NO.9463/2014

29 WRIT PETITION NO. 9463 OF 2014

LAXMAN KHOKADU THELARI AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioners : Mr.Patil R.C.
AGP for Respondents:Mr.N.B.Patil
Mr. Pawar Ajay D., Advocate, for R/3.

...
CORAM : R. M. BORDE & P.R. BORA, JJ.
Dated: July 29, 2015

...
PER COURT :-

1. The petitioners are praying for issuance of directions to the respondents to determine the amount of rental compensation payable to the petitioners under the policy prescribed by the State Government.

2. It is noticed, on perusal of the award passed by the Land Acquisition Officer on 10.4.2001 that under the award the possession of the property under acquisition was directed to be taken over after issuance of notice under Section 12(2) of the Land Acquisition Act. The petitioners have, however, contended in the Reference Application presented by them to the Civil Court, raising challenge to the award that, the possession of the property has been taken over by entering into negotiations with the acquiring body on 17.11.2000 i.e. prior to passing of the award. On perusal of the judgment delivered by the Reference Court, it is noticed

agp/-

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that the Reference Court has allowed interest on the enhanced amount of compensation at the rate of 9 per cent for the first year from the alleged date of dispossession as contended by the petitioners in the Reference Application i.e. from 17.11.2000. Since the Reference Court has awarded interest to the petitioners from the date of taking over possession as contended by the petitioners in their Reference Application, the petitioners are not entitled to claim rental compensation. The rental compensation can be allowed only in the event the acquiring body assumes possession of the property before initiation of proceedings under Land Acquisition Act.

3. In the instant matter, admittedly, the proceedings under Land Acquisition Act were initiated on 5.6.2000 and, as per the admission of the petitioners, the possession of the agricultural property has been taken over on 17.11.2000, and on that count, they have already received the benefits in accordance with the provisions of the Land Acquisition Act. In any eventuality, the petitioners are not entitled to claim rental compensation and, as such, the directions as requested by the petitioners need not be issued.

The writ petition is devoid of substance and hence stands rejected.

(P.R. BORA, J.)

(R. M. BORDE, J.)

agp/-